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TAGS: PHUM KDEM PGOV VE

SUBJECT: SIMONOVIS, VIVAS, FORERO TRIAL WINDING DOWN

REF: A. CARACAS 00073
1B. CARACAS 00514

Classified By: ACTING POLITICAL COUNSELOR DANIEL LAWTON
FOR REASON 1.4 (D)

11. (C) Summary. The trial against three former Caracas police commissioners and eight other police officers for deaths relating to the April 2002 attempted coup is in its final stages. Pilar Simonovis, the wife and lawyer of ex-commissioner Ivan Simonovis, told Poloff April 8 that closing arguments will begin in the coming weeks. She speculated that four of the defendants will likely be acquitted while the rest sentenced. Meanwhile, according to Simonovis, the trial continues to be plagued by irregularities and delay tactics from the bench and the prosecution. The Bolivarian Republic of Venezuela will likely use this case to demonstrate that the events of April 2002 will not go unpunished. End Summary.

12. (C) In an April 8 meeting, Pilar Simonovis provided Poloff with an update on this case. (Note: Former Caracas Metropolitan Police Commissioners Ivan Simonovis, Henry Vivas, and Lazaro Forero are accused of ordering police officers to fire on demonstrators on April 11, 2002. The defendants are on trial for three of the 19 deaths that occurred during the march. End Note). Simonovis said the trial is winding down and expects closing arguments to begin in May or June. She described to Poloff a defense-petitioned walk-through of the crime scene. Simonovis believes the exercise was important because the judge assigned to the case was not familiar with the area. In addition, defense lawyers wanted to point out distances and the inclination of the bridge where the demonstration took place to support their argument that the defendants were not in a position to shoot the demonstrators.

13. (C) Simonovis also speculated that four police officers, for whom evidence was presented demonstrating that they were not present at the scene, will be acquitted. She predicted the other officers will be convicted for allegedly following orders to fire on demonstrators. Regarding the ex-commissioners, she believes her husband will be convicted of negligent homicide because the prosecution has argued that as Coordinator of the Metropolitan Police he negligently allowed the April 11, 2002 demonstration to proceed, thus leading to the deaths. Ex-commissioner Simonovis could be sentenced to eight years in prison if convicted. She believes Vivas could receive a similar sentence. Forero, she opined, will be convicted of being a necessary accomplice to homicide because he is accused of ordering officers to fire on the crowd over the police radio system. (Note: According to Simonovis, evidence shows that Forero said "they are firing at us" over the radio but did not order police

officers to respond. End Note). Forero could face up to 25 years in prison if convicted of this charge.

¶14. (C) Simonovis told Poloff that irregularities and trial delays continue to play out in the final stages of the trial. For instance, the prosecution and the judge have refused to allow experts to review the supposed radio messages where Forero ordered officers to fire on demonstrators. The judge has also canceled several hearings to attend to personal medical issues but has repeatedly refused to allow the defendants to receive medical care. Finally, Simonovis noted that the Bolivarian Republic of Venezuela (BRV) has not shown interest in investigating the other deaths that occurred as a result of the demonstration, presumably because they were caused by Chavez supporters.

¶15. (C) Comment. Given that the defendant's motion to dismiss the charges in this case under President Chavez's Amnesty Decree was previously denied, we anticipate the BRV will seek to convict at least some of the defendants for the three deaths. We also expect the BRV will continue to use the Simonovis case as an example that the events surrounding Chavez's temporary removal from power six years ago will not go unpunished. Furthermore, Pilar Simonovis' predictions regarding the verdict indicate that the defense team is preparing for a worst-case scenario as the trial draws to a close. End Comment.

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